

303-22/JFK-KOB

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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OLIVIA BERGANZA,

Case No.:

Plaintiff,

**NOTICE OF REMOVAL**

-against-

Removed from:

DAGON MARINE, LLC,

Supreme Court of the State of New York

County of New York

Index No. 155533/2022

Defendant.

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**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Dagon Marine, LLC (hereinafter the “Defendant”) hereby removes this action from the Supreme Court of the State of New York, New York County, to the United States District Court for the Southern District of New York, and respectfully avers as follows:

1. This Notice of Removal is made subject to the right of Defendant to appear specially and interpose any defense, including but not limited to any defenses made pursuant to Federal Rule of Civil Procedure 12(b).

2. This Honorable Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) and removal is proper pursuant to 28 U.S.C. § 1441.

3. This Honorable Court occupies the district in which this action was pending. *See* 28 U.S.C. § 110.

4. On or around June 30, 2022, Plaintiff Olivia Berganza (“Plaintiff”) filed suit against Dagon Marine, LLC in the Supreme Court of the State of New York, New York County. That case has been assigned Index No. 155533/2022. A true and correct copy of Plaintiff’s Complaint is attached hereto as **Exhibit “A.”**

**REMOVAL ON THE BASIS OF DIVERSITY  
JURISDICTION IS PROPER AND TIMELY**

5. Upon information and belief, at all material times relevant hereto, Plaintiff Olivia Berganza was and is a natural person residing in the State of New York, County of Westchester, as stated in the Complaint. (See Exhibit “A”).

6. At all material times relevant hereto, Defendant Dagon Marine, LLC was at the times complained of and is now a foreign limited liability corporation, with an office and its principal place of business located in Secaucus, New Jersey.

7. The parties therefore have complete diversity of citizenship insofar as Plaintiff is a citizen of New York and Defendant is a citizen of New Jersey.

8. Based on the allegations contained in the Complaint, and upon information and belief, Defendant believes that the amount in controversy exceeds \$75,000, as the claim is for serious personal injury as alleged by the Complaint. (See Exhibit “A”).

9. This Notice of Removal is timely, pursuant to 28 U.S.C. § 1446(b), because it is being filed within thirty (30) days of when Plaintiff served her Summons and Complaint on Defendant. *See* 28 U.S.C. § 1446(b).

10. There are no other valid parties to this action other than those mentioned herein.

11. Pursuant to 28 U.S.C. § 1446, a copy of this Notice of Removal is being served on Plaintiff, through her counsel, and a Notice of Removal will be filed with the Clerk of the Court for the Supreme Court of the State of New York, New York County.

12. Defendant reserves the right to amend or supplement this Notice of Removal and/or to urge additional arguments in support of its entitlement to remove.

**WHEREFORE**, Defendant prays that the action now pending against it in the Supreme Court of the State of New York, New York County, described above, be removed to this Honorable Court and proceed herein; that the State Court proceed no further in this litigation; and that Defendant have such other, further and different relief as this Court may deem just and proper in the premises.

Dated: New York, New York  
July 29, 2022

FREEHILL HOGAN & MAHAR LLP  
*Attorneys for Defendant Dagon Marine, LLC*

By:



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TO: Thomas H. Straub, Esq.  
ROSENBAUM & ROSENBAUM, P.C.  
*Attorneys for Plaintiff Olivia Berganza*  
100 Wall Street, 15<sup>th</sup> Floor  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Notice of Removal, was filed with the Court electronically and was served upon Plaintiff's counsel on July 29, 2022, by electronic mail and First Class Mail addressed to:

Thomas H. Straub, Esq.  
ROSENBAUM & ROSENBAUM, P.C.  
*Attorneys for Plaintiff Olivia Berganza*  
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T: (212) 514-5007

Dated: New York, New York  
July 29, 2022



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John F. Karpousis